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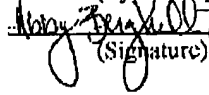
## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office to Examiner Roark in Group Art Unit 1644 at (Fax No. 703/746-5174) on March 17, 2003

(date)

Abby Berghella

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Patent

Attorney's Docket No. 033136-119

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)	
	)	
Richard G. Miller et al.	)	Group Art Unit: 1644
	)	
Application No.: 09/541,033	)	Examiner: Jessica H. Roark
	)	
Filed: March 31, 2000	)	Confirmation No.: 3667
	)	
For: METHOD FOR TREATING	)	
AUTOIMMUNE AND ALLOIMMUNE	)	
DISEASES	)	

COMMUNICATION TRANSMITTAL LETTER

Assistant Commissioner for Patents  
Washington, D.C. 20231


Sir:

Enclosed is a Communication for the above-identified patent application.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER &amp; MATHIS, L.L.P.

By: Lorna L. Tanner  
Registration No. 50,782

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Alexandria, Virginia 22313-1404  
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Date: March 17, 2003

(02/03)

JHC 3/17/03

## CERTIFICATE OF FACSIMILE TRANSMISSION

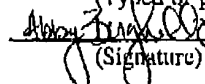
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Richard G. Miller *et al.*

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AUTOIMMUNE AND ALLOIMMUNE  
DISEASES

Group Art Unit: 1644

Examiner: Jessica H. Roark

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COMMUNICATION

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The undersigned wishes to thank Examiner Roark for the courtesies extended during the telephonic interview conducted on March 11, 2003 for this application with Gerald F. Swiss (Reg. No. 30,113).

During that telephonic interview, the rejection of Claims 1-11 under 35 U.S.C. §103(a) as allegedly being unpatentable over Bolton (U.S. Patent 5,980,954) in view of Jacobs (U.S. Patent 5,605,690) was discussed. Specifically, the issue was raised whether the rejection over the Bolton patent should have been raised under 35 U.S.C. § 103(c) due to a possible obligation by the inventors of the instant application to assign to Vasogen Ireland Limited. Applicants and the Examiner agreed that notwithstanding the common obligation to assign at the time the invention was made, the parent<sup>1</sup> of the Bolton patent,

<sup>1</sup>U.S. Patent 5,980,954 is a continuation in part of U.S. Application 08/352,802, which issued as U.S. Patent 5,591,457 on January 7, 1997.

(05/02)

Attorney's Docket No. 033136-119Application No. 09/541,033


Page 2

U.S. Patent 5,591,457<sup>2</sup> would not qualify as prior art under 35 U.S.C. §102(c), (g), or (h) and thus 35 U.S.C. § 103(c) would not apply.

As such, Applicants and the Examiner agreed that the rejection should be reissued with the appropriate art rejection.

Respectfully submitted,

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By:   
Lorna L. Tanner  
Registration No. 50,782  
Attorney of Record

Date: March 17, 2003

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<sup>2</sup>Kindly note that the '457 patent discloses the treatment of rheumatoid arthritis.

**BURNS DOANE**BURNS DOANE SWECKER & MATHIS LLP  
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Fax Tel. No.: <b>(703) 746-5174</b>	Sent By: <b>Abby Berghella</b>
Your Ref.: <b>U.S. Serial No. 09/541,033</b>	Our Ref.: <b>033136-119</b>
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